

GARFUNKEL WILD, P.C.
ATTORNEYS AT LAW
111 GREAT NECK ROAD • GREAT NECK, NEW YORK 11021
TEL (516) 393-2200 • FAX (516) 466-5964
www.garfunkelwild.com

MICHAEL J. KEANE
Partner Director
Licensed in NY, NJ
Email: mkeane@garfunkelwild.com
Direct Dial: (516) 393-2263

FILE NO.: 12118.0109

November 2, 2021

By ECF

The Honorable Ann M. Donnelly
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *John Does et al. v. Kathy Hochul et al.*
Docket No. 21 Civ. 5067 (AMD) (TAM)

Dear Judge Donnelly:

We represent Defendant Westchester Medical Center Advanced Physician Services, P.C. (“APS”) in the referenced action. As directed by Orders dated October 4, 2021 and October 12, 2021, we write to respond to Plaintiffs’ motion for a protective order and to proceed using pseudonyms (ECF Doc. No. 41). With the reservation of rights discussed in the next paragraph, APS does not oppose this motion, provided that: (a) Plaintiffs are required to disclose their identities to APS; and (b) APS is permitted, under any protective order entered by the Court, to share the identities of Plaintiffs with such individuals as may be necessary to defend the claims against it in this action.

APS’ position on this motion is expressly based upon Defendants’ representation that this action narrowly addresses “purely legal questions” regarding the impact of Title VII and federal constitutional law on the New York State COVID-19 vaccine mandate for health care workers (codified at 10 N.Y.C.R.R. § 2.61). ECF Doc. No. 41, p. 8. Given that purely legal issues are at stake, there should be little reason to explore the facts relating to Plaintiffs’ identities. APS respectfully reserves the right to challenge Plaintiffs’ request to proceed pseudonymously in the event that these circumstances change, such as through an amendment of their Complaint or if their identities become more relevant to the adjudication of their claims.

Respectfully submitted,

/s/ Michael J. Keane

Michael J. Keane

cc: All Counsel of Record